

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

ROSEMERE NEIGHBORHOOD  
ASSOCIATION; and CLARK COUNTY  
NATURAL RESOURCES COUNCIL,

Plaintiffs,

v.

CITY OF VANCOUVER,

Defendant.

Case No. C04-5667RBL

ORDER DENYING DEFENDANT'S  
MOTION FOR BILL OF COSTS

This matter is before the Court on the Defendant's Motion for a Bill of Costs [Dkt. #83]. Defendant seeks less than \$750.00 in costs incurred in this case, pursuant to Fed. R. Civ. P. 54(d)(1). Plaintiffs oppose the request.

Citing *Save Our Valley v. Sound Transit*, 335 F.3d 932 (9<sup>th</sup> Cir. 2003) and similar cases, Plaintiffs argue the court should exercise its discretion to deny the costs. Plaintiffs argue that there are clear and substantial economic discrepancies between it and the Defendant, that its claims were meritorious and asserted in good faith, and that they were brought in the public's interest. It also argues that awarding costs in this case would chill similar citizen suits in the future.

The City disputes these points, stating as a factual matter that the Plaintiffs have paid their own attorneys to assert the claims in this case generally, and specifically to oppose the Defendant's Motion for Costs. Defendant also suggests that Plaintiffs' motives were not necessarily consistent with notions of good faith. It submitted, and then immediately withdrew, the Declaration of the Vancouver City Attorney. That

1 Declaration did not touch upon the issues in the case or on this Motion; instead, it made vague but disparaging  
2 remarks about Plaintiff Rosemere. The Plaintiffs' attorneys specifically deny having been paid for their work  
3 on this case.

4 The Court has considered the record and the history of this litigation. The Defendant has clearly spent  
5 far more in seeking the costs at issue than it could recover if its Motion was granted. Two of Defendant's  
6 arguments in favor of costs - Plaintiffs paid their own attorneys' fees, and Plaintiffs have brought this case in  
7 bad faith - are not supportable.

8 The Plaintiffs are nonprofit entities acting in good faith to raise novel and complex issues of public  
9 import. Forcing them to pay a Defendant with a resource advantage like that favoring Vancouver here would  
10 have a chilling effect on similar future suits. The Defendant's Motion for Costs is therefore DENIED.

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12 DATED this 28<sup>th</sup> day of November, 2005

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15 RONALD B. LEIGHTON  
16 UNITED STATES DISTRICT JUDGE  
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